



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Wednesday, September 12, 2007
9:00 a.m.

Boardroom of the State of Nevada Gaming Control Board
Grant Sawyer Building
555 E. Washington Avenue
2nd Floor, Executive Conference Room
Las Vegas, NV 89101

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission offices in Carson City and Las Vegas.

Commission Members Present:

Jim Kosinski, Esq., Chairman; Mark Hutchison, Esq., Vice Chairman; Timothy Cashman;
Randall Capurro; William Flangas; Caren Jenkins, Esq.; George Keele, Esq.;
Rick Hsu, Esq. (by telephone for agenda items 1 and 2 only)

Commission Members absent during certain agenda items, due to their participation in the Panel
Proceeding for those specific cases, and/or due to other commitments:

Agenda items 1 and 2: Jim Kosinski, Esq., Chairman; George Keele, Esq.;

Agenda item 4: Commissioners Cashman and Flangas;

Agenda item 6: Commissioners Hsu and Jenkins

Commission on Ethics Staff Present:

Adriana G. Fralick, Esq., General Counsel and Interim Executive Director;
Matt Di Orio, Senior Investigator; Tami DeVries, Research Analyst

Others Present:

Donna Bailey, Commissioner, Board of Eureka County Commissioners;
Theodore Beutel, Eureka County District Attorney, Counsel to Ms. Bailey;
Earl Mitchell, Constable, Clark County, Henderson Township;
William Brown & Carlos Blumberg, Counsel to Mr. Mitchell;
Gary Waters, Former Member, Nevada State Board of Education;
James Edgar Irvin, Deputy Attorney General assigned to represent the
Department of Education and the State Board of Education;
George M. Keele, Commissioner, Nevada Commission on Ethics;

Jim Wilson, Counsel to Mr. Keele
Other members of the public were present as well.

Vice Chairman Hutchison called the meeting to order at 9:30 a.m., Wednesday, September 12, 2007.

Agenda Item 1 – Closed Session

Closed session pursuant to NRS 281.511(13) to receive information or evidence and deliberate concerning the propriety of the conduct of public officers pursuant to NRS 281.511 and NAC 281.109

Agenda Item 2 – Request for Opinion 07-07C

Open session to take action on a proposed stipulation in the matter of the Request for Opinion regarding the conduct of Donna Bailey, Commissioner, Board of Eureka County Commissioners.

Vice Chairman Hutchison opened this agenda item. Commissioner Jenkins moved that the Commission accept the stipulation from Commissioner Bailey that she will pay to the Commission a fine of \$300 as a sanction for two willful violations of the Ethics in Government Law. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously.

Vice Chairman Hutchison closed this agenda item and at that point turned the meeting over to the Chair.

Agenda Item 3 – Request for Opinion 06-67

Open session to hear testimony, receive evidence, deliberate and render an opinion relating to a Request for Opinion submitted pursuant to NRS 281.511(2)(b), alleging that certain conduct of Earl Mitchell, Constable, Clark County, Henderson Township, violated the provisions of NRS 281.571(1)(b).

Chairman Kosinski opened this agenda item. He then proceeded to have the witness, Earl Mitchell, sworn in to testify. Ms. Fralick provided the Commission with a background of the panel determination regarding this case. She stated that the issue is whether Mr. Mitchell failed to adequately list his position as Henderson Constable as a general source of income.

Mr. Mitchell's counsel, William Brown, provided an opening statement. Mr. Mitchell then testified before the Commission. There were no other witnesses called by the Commission or by counsel to Earl Mitchell. Following testimony and deliberations, Commissioner Jenkins moved that the Commission find that Constable Mitchell, by failing to list his constable income on his financial disclosure statement under the column calling for all general sources of income,

violated NRS 281.571 subsection (1)(b) in each instance in which he failed to list his constable income. Vice Chairman Hutchison seconded the motion. After further discussion, the motion was put to a vote and passed unanimously.

Chairman Kosinski moved that the Commission find seven violations for failure to properly file the financial disclosure form as contained in the exhibits presented by the subject.

Commissioner Flangas seconded the motion. The motion was put to a vote and passed unanimously.

The Commission then considered whether the violations were willful. Chairman Kosinski moved that the violations are not willful because Mr. Mitchell did not know nor should have known the correct definition and correct method of filing the forms. Commissioner Capurro seconded the motion. After further discussions on the motion, the motion was put to a vote and passed unanimously. Chairman Kosinski clarified that since the motion passed finding no willful violation of the ethics laws committed by Mr. Mitchell, there would be no discussion of penalties. He then closed this agenda item.

Agenda Item 4 – Request for Opinion 06-30

Open session to hear testimony, receive evidence, deliberate and render an opinion relating to a Request for Opinion submitted pursuant to NRS 281.511(2)(b), alleging that certain conduct of Gary Waters, Former Member, Nevada State Board of Education, violated the provisions of NRS 281.501(2), and NRS 281.501(4).

Chairman Kosinski opened this agenda item. The Commission called Gary Waters to testify followed by James Irvin.

A recess was taken at 3:07 p.m., and testimony reconvened at 3:22 p.m.

The Commission called its senior investigator, Matt Di Orio, to testify. Chairman Kosinski stated that under NRS 281.501 subsection 4, a public officer or employee cannot approve, disapprove, vote, abstain from voting or otherwise act upon any matter without disclosing sufficient information concerning a gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan or upon the person to whom he has a commitment or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body that makes decisions, he shall make the disclosure in public to the chairman and other members of the body. Therefore, Chairman Kosinski moved that there was no necessity for Mr. Waters to make a disclosure at the time of his presentations to the board at the March, April and June meetings because there were no votes taking place at that time. Commissioner Capurro seconded the motion. After further discussion by Commissioners Hutchison and Jenkins, the motion was put to a vote and passed unanimously. Chairman Kosinski then stated that since there is no issue of disclosure, there is no issue of abstention and therefore, the issue of abstention is dismissed.

Chairman Kosinski closed this agenda item.

Agenda Item 5 – Closed Session

Closed session pursuant to NRS 281.511(13) to receive information or evidence and deliberate concerning the propriety of the conduct of public officers pursuant to NRS 281.511 and NAC 281.109.

Agenda Item 6 – Request for Opinion 07-36C

Open session to take action on a proposed stipulation in the matter of the Request for Opinion regarding the conduct of George M. Keele, Commissioner, Nevada Commission on Ethics. Commissioner Keele failed to file the agency representation disclosure form required by NRS 281.491(3).

Chairman Kosinski opened this agenda item to consider a stipulated agreement between the Commission and George M. Keele. Vice Chairman Hutchison moved that the Nevada Commission on Ethics accept the stipulated agreement that has been presented to the Commission concerning Commissioner George Keele, which provides that Commissioner Keele committed four violations of NRS 281.491(3); but no willful violations. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously.

Agenda Item 7 – Open session to discuss the status of the recruitment for the position of the Executive Director.

Chairman Kosinski opened this agenda item. He advised the Commission that the two subcommittees met and were scheduled to conduct initial interviews, and would then be making their recommendations to the full commission for interviews to be conducted on September 21, 2007. Chairman Kosinski then closed this agenda item.

Agenda Item 8 – Open session for review of Request for Opinion Log

Chairman Kosinski opened this agenda item and stated that he was not satisfied with information presented in the report. He also said that he would be working with Emily [Office Manager] to create a shorter report that would be easier to review and he would try to have that ready by the next Commission meeting.

Agenda Item 9 – Open session for Chairman's Comments

Chairman Kosinski advised the Commission that the City of Sparks sued the Commission, filed a writ of mandamus, request for injunctions, et cetera. He stated that Ms. Fralick had 48 hours to

respond and did a great job of drafting a response. He further explained that the judge denied the request by the City of Sparks because "...he felt there was a legal remedy at law and it wasn't ripe because we didn't have an opinion written yet..."

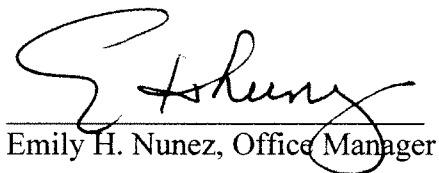
Chairman Kosinski also talked about the statements used at the end of the written opinions. He suggested staff use alternative language. He then closed this agenda item.

Agenda Item 10 – Open session for public comment

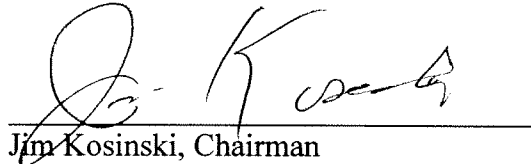
Chairman Kosinski opened the agenda item for public comment. No public comment was made, and the agenda item was closed.

Chairman Kosinski adjourned the meeting at 4:09 p.m.

Minutes transcribed by:


Emily H. Nunez, Office Manager

Minutes approved November 14, 2007


Jim Kosinski, Chairman